

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Alan Richard Reece
Patent No.: 7,607,740
Issue Date: October 27, 2009
Title: Wheel Assembly for Vehicle having Drive Plates in which Forces
Exceeding a Level are Not Transferred to the Axle

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION UNDER 37 C.F.R. §1.322(b)

Dear Sir:

With this petition under 37 CFR 1.322(b) Applicant respectfully requests reprinting of the above-identified US Patent with the name of the inventor correctly spelled and in the alternative issuance of a Certificate of Correction pending an appeal of any decision rejecting our Petition. The correct spelling of the name of the Inventor is Alan Richard Reece. Specifically, 37 CFR 1.322(b) states: "If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee." When a mistake in a patent is "incurred through the fault of the Patent and Trademark Office" and "is clearly disclosed by the records of the Office, the Director may issue a certificate of correction ... without charge" or "[t]he Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction." (See 35 U.S.C. 254; MPEP § 1480) As the mistake in the original patent Certificate is due to an error on the part of the US Patent and Trademark Office, no fee is believed due with the filing of this petition. Included with this Petition is evidence from the file history of the subject Patent showing the mistake was an error by the US Patent and Trademark Office as well as argumentation in support of Applicant's contention that reissuance of the subject Patent is the most appropriate form for correcting this mistake.

Statement of the Facts

The patent application on which the subject US Patent is based was filed as a National Stage Patent Application with the United States Patent and Trademark Office on April 13, 2005. On October 25, 2005, a response to a Notice of Missing Requirements was filed with a Declaration on which the name of the inventor was misspelled as “Alan Richard Reege” (Exhibit A). On or around March 16, 2006, it was discovered by applicant that there was a misspelling of the inventors’ name in the filing of this U.S. Patent Application. Specifically, the name of the inventor “Alan Richard Reece” was misspelled as “Alan Richard Reege.” The misspelling was determined to be a result of a typographical error in the Original Declaration filed with the US Patent and Trademark Office (USPTO). A Substitute Declaration was subsequently prepared and executed by the Inventor correcting the spelling of the inventor’s name as “Alan Richard Reece”. The Substitute Declaration was filed along with a Petition under 37 C.F.R. §1.182 on July 6, 2007 (Exhibit B). In response to the Petition, a corrected Filing Receipt was received from the US Patent and Trademark Office on November 28, 2007 (Exhibit C).

All correspondence issued by the USPTO on and after November 28, 2007 contained the correct spelling of the inventor’s name as “Alan Richard Reece.” These documents included Office Actions dated June 26, 2007 (Exhibit D); February 15, 2008 (Exhibit E) and September 17, 2008 (Exhibit F). Additionally, the Notice of Allowance and Issue Fee Due (Exhibit G) dated August 21, 2009 and Issue Notification (Exhibit H) dated October 7, 2009 also contained the correct spelling of the Inventor’s name.

However, on the front page of the issued United States Patent, the inventor’s name is misspelled as “Alan Richard Reege.”

Applicant further submits that the misspelling of the name of the inventor is a material error and is only appropriately corrected by re-issuing the Official Patent Certificate with the inventors name spelled correctly. Applicant hereby submits the following arguments in support of this position.

1. The misspelling of “Alan Richard Reece” as “Alan Richard Reege” on the face of US Patent No. 7,607,740 is a material error made by the United States Patent and Trademark Office.

“Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office...The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction” (35 U.S.C. 254; MPEP § 1480). Although the name of the inventor was incorrectly spelled in the originally filed documents, applicant took all necessary steps to correct the misspelling and the misspelling was corrected by the US Patent and Trademark Office as evidenced by the attached documentation (See Exhibits A-H). The misspelling of “Alan Richard Reece” as “Alan Richard Reege” on the Official Patent Certificate was an error solely made by the US Patent and Trademark Office. As set forth in the Statement of Facts, Applicant properly filed a Petition under 37 C.F.R. § 1.182 along with a Substitute Declaration to correct the spelling of the Inventor’s name. In response to the Petition, a Corrected Filing Receipt correcting the spelling of the name of the inventor was issued by the US Patent and Trademark Office. Additionally, all correspondence received from the USPTO subsequent to filing of the Petition contained the correct spelling of the inventor’s name. However, without notice to the applicant or reason behind this mistake, the face of the issued patent includes a typographical error in the inventor’s name. The inventor’s name is misspelled as “Alan Richard Reege” on the face of the Official Patent Certificate instead of “Alan Richard Reece.” As all correspondence issued by the US Patent and Trademark Office subsequent to the filing of the Petition contained the correct spelling of the inventor’s name, it is respectfully submitted that Applicant took all the necessary steps to correct the spelling of the Inventor’s name and that the name was corrected in the records of the US Patent and Trademark Office. Thus, the misspelling of “Alan Richard Reece” as “Alan Richard Reese” on the face of the Official Patent Certificate is an Office Mistake under 35 U.S.C. 254 and MPEP § 1480. As such, it is respectfully submitted that the appropriate form for correcting this mistake is reissuing of the Official Patent Certificate.

2. A certificate of correction is inappropriate in form to correct the misspelling of "Alan Richard Reece" as "Alan Richard Reese" and the Director should issue a corrected patent as a more appropriate form of a certificate of correction.

"If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee" (37 CFR 1.322(b)). To my knowledge, the United States Patent Office is the ONLY patent office throughout the world which requires filing of a US patent application in the name of the inventor(s). Additionally, to my knowledge, the US Patent Office is also the ONLY patent office which maintains a first to invent system as opposed to a first-to-file system. Thus, the US Patent Office holds the inventor in a very high and uniquely important position. By allowing a misspelling of an inventor's name to appear on the face of an Official Patent Certificate denigrates the importance of the inventor and is contrary to the accepted level of importance the inventor holds in the US Patent System. A Certificate of Correction, which is simply a piece of paper placed in the back of an issued patent, is an inappropriate form for correcting the misspelling of information as important as the name of an inventor. Certificates of Correction, while sufficient to address many less significant errors made in patents, are not sufficient to correct a mistake in a material item of information as these certificates are frequently separated from or not even attached to the patent documents with which they are associated. Additionally, the public interest of disclosing all pertinent information regarding a patent on the cover page of a patent would not be served by simply placing a Certificate of Correction correcting an inventor's misspelled name in a patent's folder. Anyone who takes a cursory look at or who is unfamiliar with USPTO practice may not consider the Certificate of Correction and instead only see the misspelled name of the inventor "Alan Richard Reese" instead of the correct spelling "Alan Richard Reece." Additionally, by issuing a patent with the name of the inventor misspelled, the US Patent Office is providing misinformation to the public as to the true source of the invention covered by the patent. In view of the importance placed on

the inventor in US Patent Applications and the damage caused by a government entity providing misinformation to not only the US population but the world, the only appropriate manner for correcting this error would be to issue a corrected patent certificate.

3. Due to the misspelling of the name of the inventor, this patent will not be uncovered when performing a patent search on the US Patent Office website using the Inventor's name as the search term.

Performing a search using the correct spelling of the inventor, "Alan Richard Reece" does not uncover the subject US Patent. This patent will only be uncovered if the misspelled name of the inventor, "Alan Richard Reese", is used as the search term. Thus, the patent could not be found through a name search. Even if the patent were found through a title search or patent number search, there may be confusion regarding who the inventor is and whether the search uncovered the correct patent, if a searcher were to see the misspelled name "Alan Richard Reese" on the patent. Thus, simply issuing a Certificate of Correction which, as discussed above, may be easily separated from the patent or lost, is an inappropriate remedy to correct the error. Additionally, failure to reissue a corrected patent is against the public interest as performing a search using the correct inventor name will not uncover the subject patent and therefore not provide access to all those who may be interested in reviewing this patent. It is in the public's interest to have easy access to patents containing correct information and for these patents to be searchable using the correct information. If a patent can only be uncovered by using incorrect information as search terms, the entire basis for the establishment of the US Patent System, to promote the sharing of information, is weakened.

4. It is unfair that to the inventor to have a US Patent with his name misspelled on the face of the patent in view of the fact that the error was solely the fault of the U.S. Patent Office.

In the present circumstance, the Inventor is the sole inventor of the invention claimed in the subject US Patent. The patent represents a significant piece of work performed by the inventor which took a large amount of time to develop and a significant investment of funds not only to develop the invention but to prosecute and receive a US patent on the invention. To have this inventor view the patent upon issuance and see his name misspelled is disheartening. It is even more disheartening to contact the US Patent Office regarding this misspelling, due completely to an error on the part of the US Patent Office, and be told that although they are responsible for the error, they refuse to do anything to correct it. By simply reissuing a corrected Patent, the US Patent Office would be making a strong statement that they do care about customers of the US Patent Office. Reissuing a corrected patent in cases like this will also help inventors feel like they and their intellectual property do matter.

5. The chain of title may be adversely affected without issuance of a corrected Patent with the name of the inventor spelled correctly on the face thereof.

If a Patent is allowed to issue with the name of the inventor incorrect on the cover page of the patent, numerous issues related to ownership, assignment and licensing of the patent can arise. As the inventor name on the assignment of this Patent does not match the name on the Patent, any person or entity looking to buy or license the patent will question the ownership of the patent as the inventor name on the patent would not match the name of the party on the Assignment of this Patent. Thus, ownership by the Assignee, who may be looking to sell or license the rights to the patent, will be put into question. For any party to such a transaction, it may cost a large amount of time and money to clarify these potential ownership issues. The misspelling on the face of the patent may even cost the patent owner business as anyone looking to buy or license the rights from the owner may not want to get involved in such a situation. Thus, in order to avoid this unnecessary confusion and provide a clear chain of title, it is appropriate to reissue the patent with the correct spelling of the name of the inventor.

6. There is minimal cost and inconvenience for reissuing patent certificate.

Compared to the potential problems caused by the error in the spelling of the inventor's name on the front page of the Patent as well as the anguish caused to the inventor when seeing his name spelled incorrectly on the Patent for which so much of his time, effort and money had gone into obtaining, the cost and amount of work required by the US Patent Office to reissue the Patent with the inventor's name spelled correctly is negligible. Currently, as all patents since 1977 are available electronically at the US patent and Trademark Office website, the cost to make a one character correction to the text of the Patent is minimal. Therefore, when considering the alternatives, reissuance of a corrected Patent is the most equitable and fair manner of correcting this error.

For the reasons presented above, it is believed that a certificate of correction is inappropriate to correct the misspelling of "Alan Richard Reece" on the issued patent and that an issuance of a new patent with the correct spelling of the inventor's name by the Director is proper.

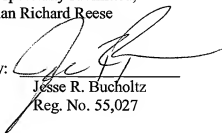
Action Requested

Applicant respectfully requests that, pursuant to 37 CFR 1.322(b), a corrected patent be issued with the correct spelling of named inventor "Alan Richard Reece." In the alternative, applicant hereby requests issuance of a Certificate of Correction pending an appeal of any decision rejecting our Petition.

No fee is believed due with this Petition. However, if a fee is due, please charge the fee to Deposit Account 50-2828.

Respectfully submitted,
Alan Richard Reese

By:



Jesse R. Bucholtz
Reg. No. 55,027

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